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## ***The Committee on Energy and Commerce***

### **Internal Memorandum**

May 11, 2011

TO: Members, Subcommittee on Energy and Power

FROM: Committee Staff

RE: Hearing on "The American Energy Initiative"

On Friday, May 13, 2011, at 9:00 a.m. in Room 2322 of the Rayburn House Office Building, the Subcommittee on Energy and Power will hold the seventh of a multi-day hearing entitled "The American Energy Initiative". This day of the hearing will focus on the Discussion Draft of H.R.\_\_\_\_, the "Jobs and Energy Permitting Act of 2011".

#### **I. WITNESSES**

##### **Panel 1**

**Ms. Gina McCarthy**  
Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency

##### **Panel 2**

**Mr. Lynn Westfall**  
Executive Vice President  
Turner, Mason & Company

**Mr. Ali Mirzakhali**  
Director  
Division of Air Quality  
Delaware Department of Natural Resources and  
Environmental Control

**Mr. Brian T. Turner**  
Assistant Executive Officer  
for Federal Climate Policy  
California Air Resources Board

**Mr. Bob Meyers**  
Senior Counsel  
Crowell & Moring

## **II. BACKGROUND**

The subcommittee's April 13, 2011, hearing day allowed the first examination of the "Jobs and Energy Permitting Act of 2011" discussion draft. Testimony was received from various stakeholders, including the Alaskan congressional delegation, an Alaskan state official, Shell Oil, citizen groups on the Alaskan North Slope, and Clean Air Act experts. The May 13 hearing day allows for further examination of the discussion draft with witnesses from EPA, state-level air officials from California and Delaware, a Clean Air Act expert, and an economist.

Alaska's arctic seas – the Beaufort and Chukchi – are estimated to contain up to 27 billion barrels of oil and 132 trillion cubic feet of natural gas, according to the U.S. Geological Survey. However, exploration and development of these fields has not been allowed to proceed despite the first lease sales having occurred in 2005. It is estimated that production from these arctic resources can offset 7 percent of foreign imports. Aside from the significant need for more secure sources of production, throughput in the Trans-Alaska Pipeline System (TAPS) is experiencing decline and will require new production from the North Slope to remain operable in the future. All witnesses at the April 13 hearing agreed that a permanent shutdown of TAPS is not an acceptable situation for the Alaskan economy and U.S. energy security.

While the Department of the Interior is the air permitting authority in the Central and Western Gulf of Mexico, the EPA is the air permitting authority in the arctic as well as the Eastern Gulf of Mexico and Pacific and Atlantic coasts. In December 2006, Shell submitted applications to EPA Region 10 for its arctic exploration activity air permits; however, after nearly five years, final agency action has not been taken, thereby frustrating oil exploration in the arctic. The air permitting process in the Central and Western Gulf of Mexico has proven to be much more efficient, with air permits being issued as part of a lessee's Exploration Plan in as few as 45 days.

To improve EPA's decision-making process for air permits in Alaska, the Committee has released a discussion draft of H.R. \_\_\_, the "Jobs and Energy Permitting Act of 2011".

## **III. SECTION-BY-SECTION**

### **Section 1: Short Title**

Section 1 provides the short title for the legislation, the "Jobs and Energy Permitting Act of 2011".

### **Section 2: Air Quality Measurement**

Section 2 amends Section 328(a)(1) of the Clean Air Act (CAA) to make clear that air quality impacts of any OCS source are to be measured solely with respect to the impacts onshore.

### **Section 3: OCS Source**

Section 3 amends Section 328(a)(4)(C) of the CAA to make clear that while vessels servicing an OCS source are to be considered direct emissions from such source, servicing vessels are not subject to emissions control requirements under the “PSD Program” of the CAA. Also, Section 3 makes clear that an OCS source is established at the time when drilling activity commences and ceases to exist when drilling activity ends.

### **Section 4: Permit Application**

Section 4 amends Section 328 of the CAA by adding a new subsection that requires final agency action with respect to a permit for an OCS source no later than 6 months after a completed application is filed. Such final agency action is to be considered nationally applicable under Section 307(b) of the CAA without additional administrative review except for reconsideration filed by the applicant under Section 307(d)(7)(B) of the CAA.

## **IV. ISSUES**

The following issues will be examined at the hearing.

- How do the modifications to the Clean Air Act proposed in the draft legislation affect permitting in OCS areas outside of the Beaufort and Chukchi Seas?
- What are the onshore air quality effects of offshore exploration and production?
- What role does the Trans-Alaska Pipeline System play in the supply and pricing of gasoline on the West Coast?
- What is EPA’s role in offshore drilling in Alaska? Where has EPA’s process succeeded and failed?
- How does the Jobs and Energy Permitting Act of 2011 address these issues? How can the discussion draft be improved or otherwise revised?

## **V. STAFF CONTACTS**

If you have any questions regarding this hearing, please contact Garrett Golding at 5-2927.